
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

MARQUETTE D. WILSON,

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Petitioner,

versus

CIVIL ACTION NO. 1:04-CV-777

STEVE MORRIS,

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§

Respondent.

**MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Petitioner Marquette D. Wilson, formerly an inmate at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends the petition be dismissed.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes petitioner's objections are without merit.

The limitations on filing second or successive 28 U.S.C. § 2255 motions found in 28 U.S.C. § 2244 apply to petitions for writ of habeas corpus brought pursuant to 28 U.S.C. § 2241.

See Ortloff v. Fleming, 88 Fed. Appx. 715, 716 (5th Cir. 2004).¹ In accordance with 28 U.S.C. § 2255, a second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals before it is filed in the district court. Here, petitioner has failed to allege or demonstrate he obtained permission to file a second or successive petition from the Fifth Circuit Court of Appeals. Therefore, the petition should be dismissed.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED at Beaumont, Texas, this 6th day of March, 2006.



MARCIA A. CRONE

UNITED STATES DISTRICT JUDGE

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The court recognizes that under Fifth Circuit Local Rule 47.5.4, unpublished opinions are not precedent except under the doctrines of *res judicata*, collateral estoppel or law of the case. Rule 47.5.4 does provide, however, that unpublished opinions may be persuasive.